

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:	Confirmation No.: 6903
Del Soldato <i>et al.</i>	Group Art Unit: 1626
Application Serial No.: 10/577,912	Examiner: Robert H. Havlin
Filed: May 1, 2006	Attorney Docket No.: 026220-00082

For: NITROOXYDERIVATIVES OF CARVEDILOL AND OTHER BETA BLOCKERS
AS ANTIHYPERTENSIVE DRUGS

**RESPONSE TO RESTRICTION REQUIREMENT AND
ELECTION OF SPECIES REQUIREMENT**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

June 5, 2009

Sir:

This paper is submitted in reply to the Restriction Requirement and Election of Species Requirement dated May 12, 2009, in the above-identified patent application.

In response to the Restriction Requirement, the Applicants hereby elect Group II (claims 1-94 and 98, in part, drawn to a product where R₁ is IIb), with traverse. In response to the Election of Species Requirement, the Applicants provisionally elect the compound (110) of claim 80 and Example 7 of the specification, with traverse. The Applicants submit that claims 1, 36, 57, 58, 59, 81, and 91 read on the elected Group II and the elected species.

Applicants respectfully submit that the inventions of Groups I-XXIV relate to a single general inventive concept under PCT Rule 13.1, as they contain a common technical feature not disclosed in the prior art. In contrast to assertions in the Office

Action, Applicants submit that the structural unit of formula (II) of present claim 1 is not disclosed by GB 707293.

In particular, Applicants note that the 3,4-dihydroxyphenyl or $-R-C_6H_5$ groups of the compounds of GB707293 do not overlap the R_1 and R_2 of formula (II) of present claim 1, respectively.

Further, as present claim 1 discloses that “s is an integer equal to 1 or 2,” there is no overlap between the “compound of general formula $A-(Y-ONO_2)_s$ (I)” of present claim 1 and the compounds of GB707293.

Accordingly, Applicants respectfully request withdrawal of the Restriction Requirement and the Election of Species Requirement, and examination of all of the claims on the merits.

If the Restriction Requirement is upheld, Applicants respectfully request rejoinder and examination of the corresponding process claims of Group XIV (claims 95-97, in part, drawn to use of a product where R_1 is IIb). Applicants reserve the right to file one or more divisional applications directed to the non-elected subject matter.

Further, Applicants thank the Examiner for indicating that “[u]pon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141” (Restriction Requirement and Election of Species Requirement, page 3).

Please charge any fee deficiency or credit any overpayment with respect to this paper to Deposit Account Number 01-2300, referencing Attorney Docket Number **026220-00082**.

Respectfully submitted,



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